

Bill No. 23-17
Concerning: Animal Control –
Performance Animal - Violations
Revised: 12/12/2017 Draft No. 11
Introduced: June 27, 2017
Enacted: December 12, 2017
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Rice and Leventhal
Co-Sponsors: Councilmembers Katz, Navarro, Riemer, Elrich, Hucker and Council President
Berliner

AN ACT to:

- (1) Define ~~[[the term “exhibit”]]~~ certain terms;
- (2) ~~[[Define the term performance animal;~~
- (3)]] Prohibit the exhibition of ~~[[performance]]~~ wild animals in a traveling animal act;
- ~~[[4)]]~~ (3) Authorize the Animal Control Division to enforce the prohibited act; and
- ~~[[5)]]~~ (4) Generally amend the provisions concerning animal cruelty.

By amending

Montgomery County Code
Chapter 5, Animal Control
Sections 5-101, 5-102, and 5-201

By adding

Chapter 5, Animal Control
Section 5-204

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 5-101, 5-102, and 5-201 are amended and Section 5-204 is added as follows:

5-101. Definitions.

In this Chapter, the following words and phrases have the following meanings:

* * *

[[Display: Any exhibit, fair, act, circus, ride, or similar undertaking in which a performance animal is required to perform tricks, give rides, or participate as accompaniments for the entertainment, amusement, or benefit of another.]]

* * *

[[Exhibit: The display of a performance animal for the financial benefit of any person or business.]]

* * *

[[Performance animal: The following animals are performance animals. The animals listed in parentheses are intended to act as examples and are not to be construed as an exhaustive list or limit the generality of each group of animals, unless otherwise specified:

- (1) non-human primates and prosimians (such as chimpanzees, baboons, monkeys, etc.) – all species;
- (2) felidae (such as lions, tigers, cougars, leopards, ocelots, servals, etc.) – all species except domestic cats;
- (3) canidae (such as wolves, coyotes, etc.) – all species except domestic dogs;
- (4) ursidae (such as bears) – all species;
- (5) marsupialia (such as kangaroos, etc.) – all species;
- (6) proboscidae (such as elephants) – all species;
- (7) crocodilia (such as crocodiles, alligators, etc.) – all species;
- (8) squamata (all species of snakes only);

- (9) artiodactyla (such as hippos, giraffes, camels, etc.) – all species except domestic cattle, swine, sheep, or goats;
- (10) perissodactyla (such as zebras, rhinos, and tapirs) – all species except domestic horses, donkeys, or mules;
- (11) struthioniformes (such as ostriches) – all species;
- (12) casuariiformes (such as emus) – all species;
- (13) Elasmobranchii (including nurse sharks and lemon sharks); and
- (14) Pinnipedia (including seals, sea lions, and walruses).]]

* * *

5-102. Administration.

* * *

- (e) Enforcement of [state] animal control laws. To the extent allowed by State law, the Division may enforce any State animal control law and any law under this Chapter. A reference in a State animal control law to the "appropriate authority" (or any similar term) in the County means the Division and any other County agency designated by regulation adopted under method (3).

* * *

5-201. Cruelty.

- (a) Violation [[under State Laws]].

A person must not violate State laws against cruelty to animals, such as by:

* * *

- [[b) Additional violation: A person or business must not exhibit or financially benefit from the exhibition of any performance animal in a traveling animal act.]]

54 ~~[[c)]~~ (b) Regulations. The County Executive may issue regulations,
 55 consistent with State law, to interpret and implement State anti-cruelty
 56 laws in the County ~~[[to interpret and enforce this subsection]]~~.

57 * * *

58 **Sec. 5-202. Dangerous and potentially dangerous animals.**

59 (a) Violation.

60 (1) Except as provided in subsection ~~[[d)]~~(h) a person must not import, sell,
 61 trade, buy, barter, breed, raise, keep, or possess:

62 (A) a wild animal; or

63 (B) any animal that the County or any other jurisdiction finds is
 64 dangerous or a threat to public health or safety, including
 65 types of animals excluded from State law prohibitions on
 66 dangerous animals.

67 * * *

68 (h) ~~[[Exception]]~~ Exceptions.

69 (1) A dog serving a law enforcement agency is not a dangerous or potentially
 70 dangerous animal or a guard dog under this Section.

71 (2) Animals in the possession of an animal sanctuary are not dangerous or
 72 potentially dangerous animals if the animal sanctuary:

73 (A) is a nonprofit organization qualified under §501(c)(3) of the
 74 Internal Revenue Code;

75 (B) operates a place of refuge for abused, neglected, impounded,
 76 abandoned, orphaned, or displaced wildlife; and

77 (C) does not conduct commercial activity with respect to any animal
 78 of which the organization is an owner.

79 (3) Wild animals do not include kangaroos, wallabies, or sugar gliders.

80 * * *

5-204. Traveling Animal Act - Prohibited.

(a) Definitions. In this section, the following words have the meanings indicated:

(1) Exhibition means an act, circus, ride, or similar undertaking in which a wild animal is required to perform tricks, give rides, or participate as accompaniments for the entertainment, amusement, or benefit of any live audience.

(2) Mobile or traveling housing facility means a transporting vehicle such as a heavy commercial vehicle as defined by Section 59.1.4.2, trailer, or railway car, used to move or house wild animals.

(3) Traveling animal act means the exhibition of a wild animal where the animal is transported to, from, or between locations for exhibition, in a mobile or traveling housing facility.

(4) Wild animal means all animals classified in the following orders or families except the species noted:

(A) non-human primates and prosimians;

(B) felidae, except domestic cats;

(C) canidae, except domestic dogs;

(D) ursidae;

(E) marsupialia;

(F) proboscidea;

(G) crocodilia;

(H) artiodactyla, except domestic cattle, bison, American buffalo, water buffalo, yak, zebu, gayal, bali cattle, suidae, sheep, goats, llamas, or alpacas;

(I) perissodactyla, except domestic horses, ponies, donkeys, or mules;

(J) elasmobranchii; and

(K) pinnipedia.

(b) Prohibition. A person or business must not charge guests or visitors a fee to attend the exhibition of a wild animal in a traveling animal act.

(c) Any activity, including agriculture and farming uses defined by Chapter 59, that uses animals other than those identified as wild under Subsection 5-204(a)(4) is exempt from the prohibition in Subsection 5-204(b).

(d) Regulations. The County Executive may issue regulations under Method 2, to interpret and enforce this subsection.

Approved:

Hans D. Riemer, President, County Council

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date